BEFORE THE BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA 8 In the Matter of the Accusation Against: Case No. 2012-586 10 DEFAULT DECISION AND ORDER JAMES STOREY PERRYMAN 11 327 N. Depot St. Leary, GA 31762 12 Registered Nurse License No. 573502 [Gov. Code, §11520] 13 14 Respondent. 15 FINDINGS OF FACT 16 On or about April 2, 2012, Complainant Louise R. Bailey, M.Ed., RN, in her official 17 capacity as the Interim Executive Officer of the Board of Registered Nursing, Department of 18 Consumer Affairs, filed Accusation No. 2012-586 against James Storey Perryman 19 ("Respondent") before the Board of Registered Nursing. 20 On or about October 30, 2000, the Board of Registered Nursing ("Board") issued 21 Registered Nurse License No. 573502 to Respondent. The Registered Nurse License expired on 22 February 28, 2004, and has not been renewed. Pursuant to Business and Professions Code 23 ("Code") section 118, this lapse in licensure does not deprive the Board of its jurisdiction to 24 maintain this disciplinary action against Respondent's license. 25 On or about April 2, 2012, Respondent was served by Certified and First Class Mail 26 copies of the Accusation No. 2012-586, Statement to Respondent, Notice of Defense, Request for 27 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at 28

Respondent's address of record which, pursuant to California Code of Regulations, title 16, section 1409.1, is required to be reported and maintained with the Board. Respondent's address on record with the Board was and is:

327 N. Depot Street Leary, GA 31762.

4. On or about April 2, 2012, Respondent was served by Certified and First Class Mail copies of the Accusation No. 2012-586, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at the following address:

1211 Newport Place Macon, GA 31210

- 5. Service of the Accusation was effective as a matter of law under the provisions of Government Code section 11505, subdivision (c) and Business & Professions Code section 124.
- 6. On or about April 26, 2012, the domestic return receipt, for the documents mailed to Respondent at the 327 N Depot Street address, was retuned to the Board indicating that the documents were delivered to Respondent on April 11, 2012 at the address of 4780 N. Depot Street. The aforementioned documents served via First Class Mail to both address and Certified Mail to the 1211 Newport Place address were not returned by the U.S. Postal Service as undeliverable.
 - 7. Government Code section 11506 states, in pertinent part:
 - (c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing.
- 8. Respondent failed to file a Notice of Defense within 15 days after service upon him of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No. 2012-586.
 - 9. California Government Code section 11520 states, in pertinent part:
 - (a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to

respondent.

- 10. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on the relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as taking official notice of all the investigatory reports, exhibits and statements contained therein on file at the Board's offices regarding the allegations contained in Accusation No. 2012-586, finds that the charges and allegations in Accusation No. 2012-586, are separately and severally, found to be true and correct by clear and convincing evidence.
- 11. Taking official notice of its own internal records, pursuant to Business and Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation and Enforcement is \$357.50 as of April 26, 2012.

DETERMINATION OF ISSUES

- 1. Based on the foregoing findings of fact, Respondent James Storey Perryman has subjected his Registered Nurse License No. 573502 to discipline.
 - 2. The agency has jurisdiction to adjudicate this case by default.
- 3. The Board of Registered Nursing is authorized to revoke Respondent's Registered Nurse License based upon the following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Evidence Packet in this case.:
- a. Disciplinary Action by the Georgia Board of Nursing. Respondent is subject to disciplinary action under Code section 2761, subdivision (a)(4), on the grounds of unprofessional conduct in that Respondent's registered professional nurse license was disciplined by the Georgia Board of Nursing ("Georgia Board").
 - i. On or about November 18, 2009, in the disciplinary action entitled In the Matter of James Storey Perryman License No. RN 136112, the Georgia Board accepted the voluntary surrender of Respondent's registered professional nurse license. Respondent acknowledged that the surrender would have the same effect as a revocation of his license.

- ii. The basis for the surrender is that on or about March 2007, pursuant to its receipt of information regarding discrepancies in Respondent's charting and administration of controlled substances and his admission to the use of marijuana, the Georgia Board issued to the Respondent an Order for a mental/physical examination ("Order"). The Order required the Respondent to undergo the mental/physical examination within fourteen days of receipt of the Order, and to ensure that the documentation of the results of such examination was received in the Georgia Board offices within thirty days of receipt of the Order. On or about April 5, 2007, the Order was received at the Respondent's address of record with the Georgia Board. However, Respondent failed to comply with the Order.
- b. Unprofessional Conduct. Respondent is subject to disciplinary action under Code section 2761, subdivision (a), in that Respondent committed acts of unprofessional conduct. The conduct is more particularly described in paragraph 3, subparagraph (a)(i-ii), inclusive, above, and herein incorporated by reference.

ORDER

IT IS SO ORDERED that Registered Nurse License No. 573502, heretofore issued to Respondent James Storey Perryman, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on August 31 2012

It is so ORDERED August 1 2012

FOR THE BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS

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Exhibit A

Accusation Case No. 2012-586

1	KAMALA D. HARRIS Attorney General of California				
2	KAREN B. CHAPPELLE Supervising Deputy Attorney General				
3	RANDY M. MAILMAN Deputy Attorney General				
4	State Bar No. 246134 300 So. Spring Street, Suite 1702				
5	Los Angeles, CA 90013 Telephone: (213) 897-2442				
6	Facsimile: (213) 897-2804				
7	Attorneys for Complainant				
8	BEFORE THE BOARD OF REGISTERED NURSING				
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA				
10					
11	In the Matter of the Accusation Against: Case No. 2012-586				
12	JAMES STOREY PERRYMAN 327 N. Depot St. ACCUSATION				
13	Leary, GA 31762 Registered Nurse License No. 573502				
14	Respondent.				
15					
16	Complainant alleges:				
17	<u>PARTIES</u>				
18	1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her				
19	official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department				
20	of Consumer Affairs.				
21	2. On or about October 30, 2000, the Board of Registered Nursing issued Registered				
22	Nurse License Number 573502 to James Storey Perryman ("Respondent"). The Registered Nurse				
23	License expired on February 28, 2004, and has not been renewed.				
24	JURISDICTION				
.25	3. This Accusation is brought before the Board of Registered Nursing ("Board"),				
26	Department of Consumer Affairs, under the authority of the following laws. All section				
27	references are to the Business and Professions Code ("Code") unless otherwise indicated.				
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4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with Code section 2750) of the Nursing Practice Act.

STATUTORY PROVISIONS

- 5. Section 118, subdivision (b) of the Code provides, in pertinent part:
- "(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground."
- 6. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.
 - 7. Section 2761 of the Code provides, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- (a) Unprofessional conduct, which includes, but is not limited to, the following:
- (4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action ..."
 - 8. Section 2811, subdivision (b) of the Code provides:

"Each such license not renewed in accordance with this section shall expire but may within a period of eight years thereafter be reinstated upon payment of the biennial renewal fee and penalty fee required by this chapter and upon submission of such proof of the applicant's qualifications as may be required by the board, except that during such eight-year period no examination shall be required as a condition for the reinstatement of any such expired license which has lapsed solely by reason of nonpayment of the renewal fee. After the expiration of such eight-year period the board may require as a condition of reinstatement that the applicant pass such examination as it deems necessary to determine his present fitness to resume the practice of professional nursing."

REGULATORY PROVISIONS

9. California Code of Regulations, title 16, section, 1419.3 provides:

"In the event a licensee does not renew his/her license as provided in Section 2811 of the code, the license expires. A licensee renewing pursuant to this section shall furnish a full set of fingerprints as required by and set out in section 1419(b) as a condition of renewal.

- (a) A licensee may renew a license that has not been expired for more than eight years by paying the renewal and penalty fees as specified in Section 1417 and providing evidence of 30 hours of continuing education taken within the prior two-year period.
- (b) A licensee may renew a license that has been expired for more than eight years by paying the renewal and penalty fees specified in Section 1417 and providing evidence that he or she holds a current valid active and clear registered nurse license in another state, a United States territory, or Canada, or by passing the Board's current examination for licensure."

COST RECOVERY

10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Disciplinary Action by the Georgia Board of Nursing)

- 11. Respondent is subject to disciplinary action under Code section 2761, subdivision (a)(4), on the grounds of unprofessional conduct in that Respondent's registered professional nurse license was disciplined by the Georgia Board of Nursing ("Georgia Board").
- 12. On or about November 18, 2009, in the disciplinary action entitled *In the Matter of James Storey Perryman License No. RN 136112*, the Georgia Board accepted the voluntary surrender of Respondent's registered professional nurse license. Respondent acknowledged that the surrender would have the same effect as a revocation of his license. The basis for the surrender is as follows:

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On or about March 2007, pursuant to its receipt of information regarding 13. discrepancies in Respondent's charting and administration of controlled substances and his admission to the use of marijuana, the Georgia Board issued to the Respondent an Order for a mental/physical examination ("Order"). The Order required the Respondent to undergo the mental/physical examination within fourteen days of receipt of the Order, and to ensure that the documentation of the results of such examination was received in the Georgia Board offices within thirty days of receipt of the Order. On or about April 5, 2007, the Order was received at the Respondent's address of record with the Georgia Board. However, Respondent failed to comply with the Order.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

14. Respondent is subject to disciplinary action under Code section 2761, subdivision (a), in that Respondent committed acts of unprofessional conduct. The conduct is more particularly described in paragraphs 12 and 13, inclusive, above, and herein incorporated by reference.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- Revoking or suspending Registered Nurse License Number 573502, issued to James 1. Storey Perryman;
- Ordering James Storey Perryman to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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1	3. Tal	king such other and further action as deemed necessary and proper.	
2	DATED:	vil 2 2012 Louise R. Bailey	
3	DATED.	LOUISE R. BAILEY, M.ED., RN Interim Executive Officer	
4		Board of Registered Nursing Department of Consumer Affairs State of California	
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Accusation